

# IDAHO Supreme Court

JUDICIAL/ADMINISTRATIVE NEWS

MARCH 2006

## Justice Jones – The First Year



Supreme Court Justice Jim Jones says his first year on the state's highest court has been interesting, enjoyable, and a bit surprising in some ways. Justice Jones, elected in 2004, took office in January of 2005 after a long career in private practice and after two terms as Idaho Attorney General.

*"It has been very interesting. I've enjoyed it,"* Jones said recently in reflecting on his first year as one of five members of the Idaho Supreme Court. *"I've always pretty much been my own spokesman and done my own thing and here you have four others you need to engage with and that has been different."*

Jones says he has been impressed that *"everyone brings something to the table and the intellectual interchange gives you a different perspective. Not that I wasn't always right in the past,"* he joked, *"but now I find that once in a while other people are right."*

As to surprises during his tenure, Jones said he has been surprised that not every attorney who appears before the Supreme Court is as well prepared as he thought they would be. *"There are more briefs than you would think that are not as well prepared. The quality of advocacy on a whole is not as good as I would have anticipated."*

The court's newest justice says the work is certainly more solitary than his previous life as a private attorney. *"I don't get many phone calls or e-mails, whereas in private practice I was dealing with the phone and e-mail all the time. Here you don't get that much interaction with the outside world, which is perhaps just the nature of the beast."*

*The Justice said he has "come to a point in life where the 'ivory tower' is not a bad thing."*

Nevertheless, Jones says he tries to get out to speak to lawyers whenever he is invited. *"It's important to keep in contact with the bar and let them know that you are not an untouchable,"* he said.

Justice Jones said he believes his political background has been helpful to his work as an appellate court judge *"particularly on issues of separation of powers or an issue where you are dealing with the legislative process or the process of sorting out rulemaking and the role of executive powers."*

Jones says he is managing the work load pretty well. *"It is pretty much as I expected, not quite as hectic as private practice, which is good."* A little more time and reflection, he says, allows a judge to focus on the underlying law in a case and not be constantly tied to working on an hourly billing cycle.



## New Fine Limits A Tool for Judges

Judge Debra Heise says she was amazed when she was told that Idaho's minimum fines for misdemeanor offenses hadn't been adjusted in more than 20 years. Further investigation revealed that the maximum \$300 fine had really been in place since 1887, even before Idaho became a state. Thanks to action by the 2005 session of the Idaho Legislature, the new limits have been raised to \$1,000, providing judges a better tool for deterrence.

The statement of purpose for HB 326 states that the legislation *"does not require the imposition of any minimum fine for any offense. Rather, the bill would allow a greater measure of deterrence by allowing courts, in their discretion, to impose any fine up to the maximum amount."*

Judge Heise says it is probably too early to judge the full effect of the change, but the Judge, who helped highlight to need for higher maximum fines, is convinced the ability to levy the higher fine will be a deterrent in some cases.

*"When it hits the pocket book, people pay attention,"* the Judge said. She points out that there really are only two forms of deterrence available to judges – a meaningful fine or jail time.

Judge Heise says she knows that individual judges will *"gauge the fine to the individual,"* and having the discretion is going to be a very useful tool.

For additional background and the full text of HB326, go to: <http://www3.state.id.us/oasis/2005/H0326.html>



## Children/Families Committee Labors On

Minidoka County Magistrate Judge Larry Duff has made the Children and Families in the Courts Committee a central focus on his work as an Idaho judge who estimates that 90% of his cases involve family law issues.

Judge Duff rattles off a long list of issues and initiatives his committee has undertaken, including expanded services to children and families who find themselves in the courts. Judge Duff, who co-chairs the children and families effort with Tom Dial, says parenting classes are now widely available and a number of the districts offer corresponding classes for children whose parents are separated or divorcing. The Committee has also been instrumental in developing mediation opportunities in divorce cases, including screening for candidates who are appropriate for alternative dispute resolution approaches.

He is particularly proud of efforts to better coordinate a variety of cases involving a family so that a judge has a full view of the issues confronting a family. *"It became so clear to me that we have to try to address all the issues in order to have a chance for success,"* he said.

Judge Duff declines to take much credit for the fact that Idaho is more and more recognized for its leadership on children and family law issues. *"I just think we have some really dedicated staff,"* he says and then applauds the support of the Idaho Legislature.

*"The Legislature has seen fit to fund these programs and that is a tremendous step forward. The State of Idaho has become a leader in the nation in addressing family law issues,"* the Judge said.

Judge Duff says, looking ahead, his committee will continue to address the growing need to provide service to Idahoans who are attempting to represent themselves in children and family law cases. *"This is one item that remains troubling and we will continue to work on agreements that will get it resolved."*





### Community Justice Workshop Planned

A Community Justice Workshop is being organized in conjunction with the Spring Symposium of the Idaho Law Review, entitled:

**"Community Justice: Exploring Possibilities."** The workshop will be held on April 13, 2006, with the symposium on April 14, 2006. Both events will be in Boise at the Doubletree Riverside Hotel.

Funding is available for judges and a 5-person team to attend both the workshop and the symposium. For details, go to:

<http://www.lawreview.uidaho.edu/symposium>

or contact Judge Patricia Young via e-mail

[patriciabyron@msn.com](mailto:patriciabyron@msn.com)



### Changes in the Judiciary

David Manweiler took the oath of office and become a new Ada County Magistrate Judge on February 28.

leadership and dedication to effectively deal with substance abuse through Idaho's drug court efforts.

### Idaho Women of the Year

Justice Linda Copple Trout and Judge Karen Lansing were named Idaho Women of the Year by the *Idaho Business Review*. The award is given to honor women who are successful leaders in their professions, mentors to other women and also find time to give back to their communities. Awards were presented at a dinner February 21 at the Boise Centre on the Grove.

Justice Linda Copple Trout's appointment to the Idaho Supreme Court in 1992, by former Governor Cecil Andrus made her the first woman appointed to the Idaho Supreme Court. Justice Trout subsequently served two terms as chief justice. She rarely declines an opportunity to work with young people.

Judge Karen Lansing was appointed to the Idaho Court of Appeals in 1993. She chairs an Idaho Supreme Court committee and serves on two others. She tutors adult students and serves on a YMCA statewide committee.

Congratulations to both Justice Linda Copple Trout and Judge Karen Lansing on being named Idaho Women of the Year.

The work of Justice Eismann and Judge Marano was acknowledged in February by the Idaho State Substance Abuse Executive Council. Nominations for the recognition came from the seven regional councils around the state. More than 35 state legislators attended the awards program held in the Idaho State Capitol Building.

Justice Eismann was a driving force behind the organization and establishment of the first drug court in Idaho in Ada County. Judge Marano was instrumental in establishing the first drug court in Kootenai County in 1999.

At the same ceremony, State Senator Joe Stegner of Lewiston was presented with the Patricia Kempthorne Award, given to an Idaho public official in recognition of contributions to substance abuse treatment efforts.

"Nominations for these awards came from a variety of community people" who wanted to acknowledge significant contributions from around the state, according to Randy Woods, Health and Welfare Department regional director in Caldwell.

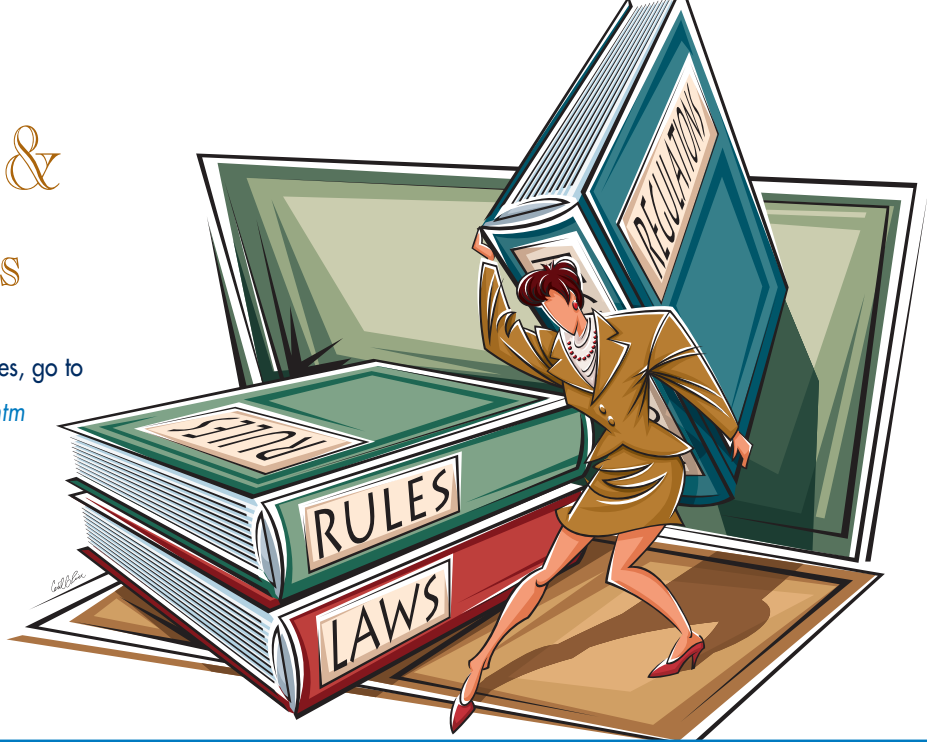
"These awards honor people for the work they are doing, but we also want to highlight for public policy makers those individuals who are really doing the work regarding substance abuse in Idaho," Wood said.

### Judges Receive Substance Abuse Awards

Supreme Court Justice Daniel Eismann and Kootenai County Magistrate Judge Eugene Marano have been recognized for their

# New Orders & Rule Changes

For current New Orders or Rule Changes, go to  
<http://www.isc.idaho.gov/rulesamd.htm>



## Electronic Citations

The Court authorized a pilot project for the Post Falls Police Department to test the feasibility of issuing electronic citations that do not conform to the requirements of Idaho Misdemeanor Rule 5 and Idaho Infraction Rule 5.

The order is available online at:

⚖ In Re: *Pilot Project For Issuance Of E-Citations By Post Falls Police Dept*

## Local Rules

⚖ In Re: *Local Rules Of The 2nd Judicial District*, effective 02-02-06

⚖ In Re: *Local Rules Of The 4th Judicial District*, effective 02-02-06

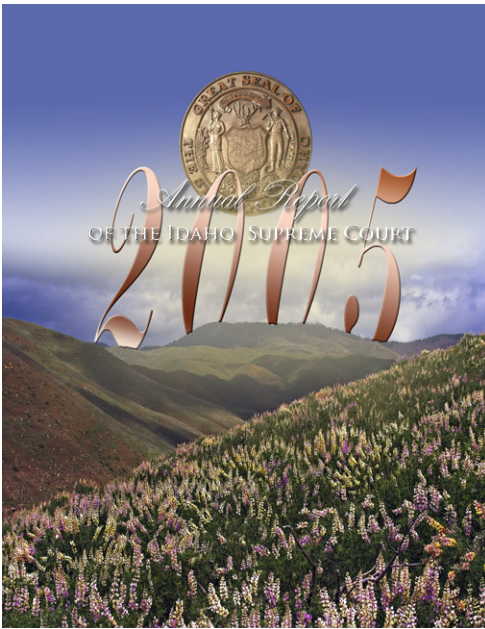
## Proposed Rule Changes

The minutes of the meetings of the Child Support Guidelines Committee, the Civil Rules Advisory Committee and the Criminal Rules Advisory Committee are now complete and available on the court's website at [Idaho Child Support Guidelines Advisory Committee - Minutes - September 30, 2005](#). There is a proposal to expand the guidelines table to a combined income of \$300,000 and to increase the level of support starting at a combined income of \$70,000.

The Civil Rules Advisory Committee has a number of proposed changes, including Rule 7(b)(3) on filing motions, affidavits and briefs, and some further amendments to Rule 75 on contempt. You will also see the Criminal Rules Advisory Committee has formed two subcommittees to look at amending Rule 16 discovery and the guilty plea advisories. Any comments on the proposed amendments may be sent to the Committee chairs or to Cathy Derden at [cderden@idcourts.net](mailto:cderden@idcourts.net). The Court will consider the committee reports and proposed amendments in March.

⚖ *Civil Rules Advisory Committee - Minutes - January 27, 2006*

⚖ *Criminal Rules Advisory Committee - Minutes - January 20, 2006*



## Judiciary's Annual Report Online

The Judiciary's 2005 Annual Report and Appendix are available online at:  
[http://www.isc.idaho.gov/annual\\_cov.htm](http://www.isc.idaho.gov/annual_cov.htm)

Please check it out!  
Thank you to all who contributed this year.



### Training Events Set

Two free, comprehensive training events on confidentiality issues related to drug court and the provision of addiction treatment are being offered in Idaho Falls, April 4 and 5 and April 6. The training covers HIPAA and 42 CFR Part 2 confidentiality and patient privacy provisions. There is a two-day provider event on April 4 and 5, and a one day drug court event on April 6.

For more information, go to:

 <http://www.isc.idaho.gov/links/ProEvent-406.pdf>

 <http://www.isc.idaho.gov/links/DC-406.pdf>

### Student Aid Restored




Federal legislation recently passed and signed by the President, can make a difference in efforts to encourage and support drug court and mental health court participants to improve their educational status. Congress enacted a change that eliminates the prior restriction on federal student aid to students if they had previously had a drug conviction.

For more information, go to:

<http://www.facesandvoicesofrecovery.org>

### Drug Control Strategy Released

John P. Walters, director of The Office of National Drug Control Policy, released the 2006 National Drug Control Strategy during a visit to a youth drug treatment center in Denver, Colorado. The new Strategy calls for a balance between reducing the demand and supply for illegal drugs in America, and outlines new programs which have been proven to be effective ways of combating substance abuse. In 2001, drug use had leveled off at unacceptably high levels. Since then, there has been a significant downturn in drug use among Americans. The 2006 Strategy will build on this progress and focus on three core principles:

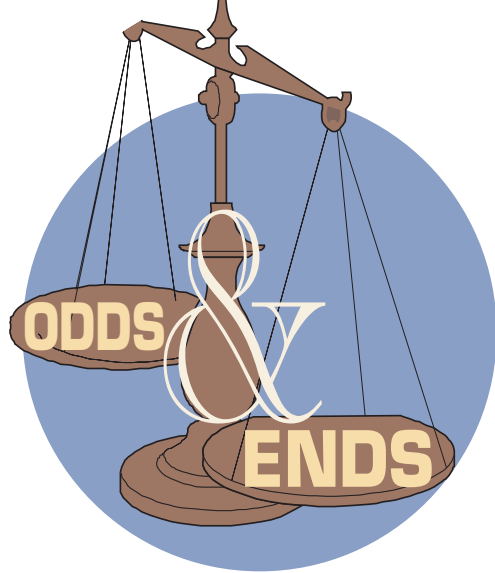
-  stopping use before it starts
-  healing America's drug users
-  disrupting the market

For more information please visit:

<http://www.whitehousedrugpolicy.gov/news/press06/020806.html>







## DECEASED JUDGES AND ATTORNEYS MEMORIAL CEREMONY

Thursday, March 23, 2006  
10:00 a.m.  
Idaho Supreme Court Courtroom  
Reception following ceremony

### Judges

Name	Residence	Date of Death in 2005
Ariel L. Crowley	Letha/Emmett	April 13
J. William "Bill" Hart	Buhl	May 9
Hardy Clayton Lyons	Sagle	August 21

### Attorneys

Name	Residence	Date of Death in 2005
William J. Brauner	Nampa	January 21
Paul C. Keeton	Lewiston	March 24
Harry Stewart Chandler	Boise County	April 2
Patricia L. McDermott	Pocatello	April 5
Byron K. Meredith	Jordan Valley, OR	April 27
Clarence J. Hamilton	Coeur d'Alene	May 5
William W. "Bill" Becker	Pocatello	May 8
Robert James Ennis	Boise	June 9
Brett P. Allison	Idaho Falls	June 28
John A. Swayne	Orofino	June 28
Louis F. Racine, Jr.	Pocatello	August 17
Wesley F. Merrill	Pocatello	Sept. 6
Stewart A. Morris	Boise	Sept. 14
Winston H. Churchill	Boise	October 14
Kim Jonathan Grosch	Coeur d'Alene	October 14

## Updates from Correction

By David Nelsen

Idaho Department of Correction

Recently, the State of Washington notified the state of Idaho that it will not accept offenders on supervision who are attending long term residential drug/alcohol treatment in their state. This blanket statement does not fall within the guidelines of ICAOS rules in considering a "non-qualified" compact when good cause is shown. Another issue that has surfaced is that Idaho District Judges have been ordering offenders into Washington treatment facilities without first applying through Interstate Compact.

Interstate Compact rules indicate an offender as, "...means an adult placed under, or made subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of the courts, paroling authorities, corrections, or other criminal justice agencies..."

RULE 3.103 Acceptance of the offender by receiving state; exception (a)  
A sending state shall not allow an offender to relocate to a receiving state without the receiving state's acceptance of the transfer of supervision.

Contact David Nelsen at [dnelsen@corr.state.id.us](mailto:dnelsen@corr.state.id.us) with any questions.

## Jury Video Update In Progress

An update to the Judiciary's Jury Orientation Video is in the works. If you have suggestions or ideas for the jury video, please contact Marji Shepherd at (208) 287-7570 or via email to: [jcshephm@adaweb.net](mailto:jcshephm@adaweb.net)

## Legal History Society Makes Request

Judge Ron Bush, a member of the Idaho Legal History Society, would like to hear from Idaho Judges who have had relatives in the legislature. To provide information to Judge Bush, you may reach him at (208) 236-7250 or via email to: [williamw@co.bannock.id.us](mailto:williamw@co.bannock.id.us)

## Council Releases Advisory Opinion – Criminal Complaint Against Judge

The Idaho Judicial Council recently released an Advisory Opinion that discusses whether recusal is required in criminal cases when a criminal complaint against a judge is lodged by a citizen and the prosecuting attorney is making a determination on whether to dismiss the complaint or prosecute the complaint.

The Advisory Opinion is available online at:

<http://www.isc.idaho.gov/links/Advisory-Opinion0106.pdf>





## TRACKING DOWN THE FILES

March 2006

**ISTARS** can help you in keeping track of the location of the physical files.

In tables, case number maintenance, there is a check box that allows the user to define which “type” of case that you want ISTARS to automatically check the box indicating that there will be a physical file for this type of case. (see sample below)

As you can see in the above example I have designated that felony cases and misdemeanor cases will always have a physical file. Infractions will not always have a physical file.

The system looks at the nature of the most serious charge to determine what the case subtype will be.

If it is a subtype that you have indicated would require a physical file, the system will automatically check this box for the case. If not, at any time you can insert a check in the box to activate the physical file tracking on a case.

Notice that there is a “tab” on the right that is associated with the physical file. Also note that the last file location will be listed on the case front screen.

The repository indicates that the file is right where it belongs. Anything else would be a change.

If you click on the physical file tab, you will have the option to change the location of the file or “check it out”.





## TRACKING DOWN THE FILES

March 2006

Once the location is changed, the new location will display on the case front screen.

follow that protocol the task of tracking down those hard to locate files, will get much easier.

**ISTARS for Fifth Judicial District Court - Camas County**

File Search Cases Payments Scheduling

Exit Names F2 Change Entry Clt. Entry Clt. Search Cr

**Criminal Case (Misdemeanor)**

Case: **CR-2005-0000020** **Closed pending**

Judge: **John F. Varin**

Prosecutor: **Campbell, Calvin H**

Filing date: **04/04/2005**

Case subtype: **Misdemeanor**

Jurisdiction: **Magistrate**

Amount due: **0.00**

File location: **VARIN**

Comment:

Created by: SYSTEM on 04/04/2005 08:00 AM

Defendant: **Agreement**

When the file comes back to the repository the clerk will again click on the physical file tab and change the location of the file.

The choices are either to “check it in” or to “Send to another user”.

This is a great tool to use case management.

We encourage you to use this tool in tracking your case files. You might not want to change location within the normal case processing flow... but certainly it will help you to know when a file has been taken to someone’s desk for preparation of an appeal, or a visiting judge has taken a file to their resident chambers for review or hearings.

Establish an acceptable protocol within your court of when you will use this tool. Then when all clerks

### Suggested protocol:

1. Set up (or confirm the setup) in case numbering to be sure that the case types that you want automatically to process as a physical file are correct.
2. Decide when you will change the location of the file.
  - i.e. Only when it leaves the floor.
  - Only when it leaves the building.
  - Any time it will be away from it’s designated location for more than a day.
  - When it goes to the appeals clerk.
3. Inform all clerks of the new protocol.
4. Enjoy the ease with which case files can be found and transferred.

NOTE: the system will keep a history of transfers for a file, which will also help with case file management naturally showing when the changes occurred and who made them.

**ISTARS for Fifth Judicial District Court - Camas County**

File Search Cases Payments Scheduling Import/Export Window Help (F1 for specific help)

Exit Names F2 Change Entry Clt. Entry Clt. Search Criminal F0 Civil F4 Juvenile F6 Doc F7 Payment F9 Civil Filing Tables Reports

**Criminal Case (Misdemeanor)**

**Case File Location**

CR-2005-0000020

Date	Location	Comment
Current: 03/03/2006 03:34 PM	Repository	
Created by: ISC on 03/03/2006 03:34 PM		
03/03/2006 03:17 PM	VARIN	To Judge's chambers for review
Created by: ISC on 03/03/2006 03:17 PM		

Change Delete Close



**JUDICIAL/ADMINISTRATIVE NEWS**  
is published by the Idaho Supreme Court.

Chief Justice Gerald F. Schroeder

Justice Linda Copple Trout

Justice Daniel T. Eismann

Justice Roger S. Burdick

Justice Jim Jones

We are very interested in your news and information. If you have or are aware of items that should be featured in a future edition of Judicial/Administrative News please let us know!

News items may be submitted for publication to Patricia Tobias:

**451 West State St.**  
**Boise, ID 83702**  
**Phone: 208-334-2246**  
**FAX: 208-947-7590**  
**E-mail: [ptobias@idcourts.net](mailto:ptobias@idcourts.net)**

Thanks!



**Note:** For the most up-to-date Judicial Calendar,  
check the Judiciary's homepage at  
<http://www.isc.idaho.gov/calendar.htm>

